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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
BUL, LUAN KIM				
ART UNIT		PAPER NUMBER		
3728				
NOTIFICATION DATE		DELIVERY MODE		
01/13/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/551,231

Applicant(s)

SHIBANO, KUNIO

Examiner

Luan K. Bui

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-7 is/are pending in the application.
- 4a) Of the above claim(s) 7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1 and 3-6 are finally rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrases “configured to be observed as a three-dimension image when observed as a pair” in claim 1 and “a three-dimensional image is observable when ...” in claim 6 are indefinite because those phrases have no clean meaning as to how are images on the package can form a three-dimensional image? There is insufficient structure recite in the claims to support such phrases. In claim 6, the phrase “a figure” appears a double recitation of the phrase “at least first and second images” in claim 1 since claim 9 depend from claim 1.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(c) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1 and 3-6 are finally rejected under 35 U.S.C. 102(b) as being anticipated by The Japanese Publication No. 07-232770 to Shigeta. Shigeta discloses a container/package (1)

having printed image that can be seen as stereogram (see the title and Figures 1-2) comprising at least first and second images (2) disposed on the container with the first image is disposed on a first surface of at least two surfaces of the package and the second image is disposed on a second surface of the package (Figures 1-2). Shigeta discloses the container in Figure 1(a) or Figure 2 is a parallelepiped. The at least first and second images on the container of Shigeta are inherently capable of forming a three-dimensional image when observed as a pair. As to claim 6, "a figure" is considered as an image in claim 1.

5. Claims 1 and 3-6 are finally rejected under 35 U.S.C. 102(c) as being anticipated by Hollander (6,431,359). Hollander discloses a package (12) comprising at least first and second images (on panels 2, 4, Figures 1-3) disposed on the package with the first image is disposed on a first surface of at least two surfaces of the package and the second image is disposed on a second surface of the package. Hollander discloses the container in Figure 3 is a parallelepiped. The at least first and second images on the container of Hollander are inherently capable of forming a three-dimensional image when observed as a pair.

6. Claims 1 and 3-6 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Densen (4,953,779). Densen discloses a package (10) comprising at least first and second images (balloon and star in Figure 1) disposed on the package with the first image is disposed on a first surface of at least two surfaces of the package and the second image is disposed on a second surface of the package. Densen discloses the container in Figures 3 and 6 is a

parallelepiped. The at least first and second images on the container of Densen are inherently capable of forming a three-dimensional image when observed as a pair.

Response to Arguments

Applicant's arguments filed on 11/10/2008 have been fully considered but they are not deemed to be persuasive.

Applicant's arguments with respect to 112, second paragraph on page 5 of the remarks are fully understood, but they are unpersuasive because of those phrases as recite in the claims (see paragraph 2 above) remain unclear as to how the images configured to be observed as a three-dimensional image.

Applicant's arguments with respect to Shigeta on page 6 of the remarks are noted. They are not persuasive because Shigeta discloses a container having printed image that can be seen as stereogram (title of the invention). Therefore, the Figure 1(a) or Figure 2 is a container/package and the container is a parallelepiped.

Applicant's argument with respect to Hollander that "None of the images described in Hollander is a three-dimensional image" is noted. This is not understood since claims 1 and 3-6 recite "first and second images" and the claims do not recite the first and second images are three-dimensional images. The images of Hollander are inherently capable of forming a three-dimensional image when observed as a pair by the techniques as disclosed by the specification of the instant patent application or by the techniques of Shigeta.

Applicant's arguments with respect to Densen on pages 7-8 of the remarks are noted. They are unpersuasive because the images on the container of Densen are inherently capable of

forming a three-dimensional image when observed as a pair by the techniques as disclosed by the specification of the instant patent application or by the techniques of Shigeta.

Applicant further argues “for a feature to be inherent, the feature must necessarily be present in the cited reference” on page 7 of the remarks is noted. This is not persuasive because for inherently rejection, the feature does not have to be presented in the specification but the invention is capable of forming the feature. In this case, the images of Densen are inherently capable of forming the feature by the technique as taught by Shigeta.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is 571-272-4552. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

lkb
January 10, 2009

/Luan K. Bui/
Primary Examiner
Art Unit 3728